



IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO
DEPARTMENT 12 BEFORE HONORABLE RICHARD M. MURPHY, JUDGE

THE PEOPLE OF THE STATE
OF CALIFORNIA,
PLAINTIFF,
VS.
JOHN IVAN KOCAK,
DEFENDANT.

NO. SCD110465

REPORTER'S PARTIAL TRANSCRIPT
NOVEMBER 17, 1995

APPEARANCES:

FOR THE PLAINTIFF(S):

MICHAEL CARMENTER
DEPUTY DISTRICT ATTORNEY
220 WEST BROADWAY
SAN DIEGO, CA 92101

FOR THE DEFENDANT(S):

RAYMOND ARAGON
DEPUTY PUBLIC DEFENDER
233 A STREET
SUITE 400
SAN DIEGO, CA 92101

COPY

ROBIN SUNKEES, CSA NO. 8824
COURT REPORTER, SUPERIOR COURT
SAN DIEGO, CALIFORNIA

1 INDICATE WHAT SHE HAS FOUND IN REGARD TO THIS BASED ON SEEING IT
2 AND PRESENTING IT TO YOU BEFORE THE BREAK.

3 AND I APOLOGIZE FOR THE LENGTH OF OUR DELAY IN
4 COMING BACK, BUT WE WERE TRYING TO MAKE SURE THAT WHAT WE HAVE
5 FOUND, NOW, IS ACCURATE SO THAT WE CAN REPORT THAT TO YOU, THAT
6 THERE WAS AN ERROR IN REPORT WRITING.

7
8 CHARLOTTE WORD, +
9 CALLED AS A WITNESS HEREIN, HAVING BEEN PREVIOUSLY DULY SWORN,
10 WAS EXAMINED AND TESTIFIED AS FOLLOWS:

11
12 REDIRECT EXAMINATION *

13 BY MR. CARPENTER:

14 Q. GO AHEAD.

15 THE COURT: THIS REFERS TO THE REPORT WHICH IS ATTACHED
16 TO THE DEFENSE MOTION AS ATTACHMENT ONE; IS THAT CORRECT?

17 MR. CARPENTER: YES.

18 THE COURT: IT'S A TWO-PAGE REPORT. IT SAYS "CELLMARK
19 DIAGNOSTICS" AT THE TOP, "JUNE 20TH, 1995."

20 THE WITNESS: THAT'S CORRECT.

21 THE COURT: THIS REPORT HAS AN ERROR IN IT; NOT THE FILM?

22 THE WITNESS: I THINK SO.

23 I'M A LITTLE HYSTERICAL RIGHT NOW, BUT I THINK
24 THE -- ACCORDING TO OUR EVIDENCE LOG SHEET, OUR SAMPLE 02 WOULD
25 BE THE KNOWN SAMPLE FOR MR. KOCAK. THE -- OUR SAMPLE 03 IS THE
26 KNOWN SAMPLE FROM MISS FRANK.

27 AND IN EXPLAINING THE GEL EARLIER, IT -- I REALIZED
28 THAT THE ANALYSIS THAT WE HAD BEEN -- WE HAD DONE, WHICH SHOWS

1 THAT THE SAMPLE 03 IS CONSISTENT WITH THE TYPES FROM SAMPLE 01A,
2 IS CORRECT, BUT WHAT WE INCORRECTLY REPORTED IS THAT 03 WAS MR.
3 KOCAK'S SAMPLE.

4 ACCORDING TO MY NOTES -- AND I HOPE I'M READING
5 THEM RIGHT, BUT I CERTAINLY WILL, IN A CALMER STATE, RECONFIRM
6 THIS -- 03 IS MR. KOCAK -- I'M SORRY -- 03 IS MISS FRANK, AND 02
7 IS MR. KOCAK.

8 SO IF YOU GO TO OUR REPORT PAGE 2, THE TYPES
9 DETECTED RESULTS CHART, THE TYPES ARE ALL CORRECT, BUT THE TWO
10 NAMES SHOULD BE SWITCHED.

11 AND THEN THE CONCLUSIONS WOULD BE INCORRECT, THAT
12 THE DATA -- THE PRIMARY DATA THAT WE HAVE OBTAINED ARE
13 CONSISTENT WITH THE TYPES FROM MISS FRANK, AND WE CAN MAKE NO
14 CONCLUSION REGARDING THE FAINT BANDS, WHICH MAY OR MAY NOT
15 INCLUDE MR. KOCAK. I HAVE NOT REVIEWED IT FROM THAT
16 PERSPECTIVE.

17 THE COURT: OKAY.

18 THE WITNESS: OUR REPORT WOULD BE, IN TERMS OF THIS CASE,
19 IF I'M ANALYZING THIS CORRECTLY, INCONCLUSIVE IN TERMS OF ANY
20 SPERM DONOR, AND I'M EXTREMELY SORRY AND APOLOGIZE TO THE COURT
21 FOR THIS ERROR.

22 THE COURT: WELL, I'M NOT -- I'M NOT SURE -- I'M NOT SURE
23 WHAT I'M SUPPOSED TO MAKE OF THIS.

24 MR. CARPENTER, PERHAPS YOU CAN CLARIFY. ARE WE
25 SUPPOSED TO NOW THROW OUT THE CELLMARK REPORT?

26 MR. CARPENTER: WELL, WHAT -- WHAT WE WOULD BE DOING IS
27 NOT PRESENTING THE CELLMARK RESULTS, BECAUSE THEY'RE
28 NONCONCLUSIVE. ALL THAT THEY SHOW IS THAT THE VICTIM'S DNA WAS